

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BRUCE RICHETTA, et al.	:	
	:	
Plaintiffs	:	CIVIL ACTION
	:	
vs.	:	
	:	NO. 07-cv-3814
STANLEY FASTENING SYSTEMS, L.P.	:	
	:	
	:	
Defendant	:	

ORDER

AND NOW, this 21st day of August, 2009, upon consideration of Defendant Stanley Fastening Systems, L.P.'s Motion for Summary Judgment, Plaintiff's opposition thereto (Doc. No. 60), Defendant's Reply Brief (Doc. No. 79), and Plaintiff's Sur-Reply Brief (Doc. No. 80), it is hereby ORDERED that **Defendant's Motion (Doc. No. 45) is DENIED**. More specifically, Defendant's request for summary judgment as to Plaintiff's strict liability (Count 2) and loss of consortium (Count 4) claims is DENIED. As Plaintiffs have withdrawn their negligence (Count 1) and breach of warranty (Count 3) claims, these claims are DISMISSED.

IT IS FURTHER ORDERED that, upon consideration of Defendant Stanley Fastening Systems, L.P.'s Motion for Partial Summary Judgment on Punitive Damages, Plaintiffs' opposition thereto (Doc. No. 36), Defendant's Reply Brief (Doc. No. 40), and Plaintiffs' Sur-reply Brief (Doc. No. 41), it is hereby ORDERED that **Defendant's Motion (Doc. No. 35) is GRANTED**. Accordingly, Plaintiffs' claim for punitive damages in their strict liability cause of action (Count 2) is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that, upon consideration of Defendant Stanley Fastening Systems, L.P.'s Motion *in Limine* for Bifurcation on the Issue of Punitive Damages, Plaintiffs' opposition thereto (Doc. No. 62), Defendant's Reply Brief (Doc. No. 73), and Plaintiffs' Sur-Reply Brief (Doc. No. 76), it

is hereby ORDERED that **Defendant's Motion (Doc. No. 47) is DENIED AS MOOT.**

IT IS FURTHER ORDERED that the parties shall file, within **thirty (30) days** of the date of this Order, **joint proposed jury instructions**, verdict forms, or special interrogatories to the jury consistent with the Court's conclusion that Sections 1 and 2 of the Restatement (Third) of Torts apply to Plaintiffs' strict liability cause of action. Each party shall also file proposed jury instructions, verdict forms, or special interrogatories on those issues not agreed upon by the parties in their joint submission. If a model jury instruction is submitted, for instance, from *Federal Jury Practice and Instructions* (5th edition) or *Pennsylvania Suggested Standard Civil Jury Instructions* (2nd edition), counsel shall state whether the proposed jury instruction is modified. If counsel modifies the jury instruction, additions shall be underlined and deletions shall be placed in brackets. Jury instructions shall be submitted each on a separate sheet of paper, double-spaced, with accurate quotes from and citations to cases and pattern jury instructions where appropriate. The parties shall also provide to the Court the proposed jury instructions on a computer diskette in WordPerfect for Windows format, version 9.0 or above.

BY THE COURT:

/s/ Thomas M. Golden

THOMAS M. GOLDEN, J.